

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ANDREA MARSH ESQUEDA and
ROBERT LEE ESQUEDA,
Plaintiffs,

v.

GLORIA JEAN BERLIND and
JOHN FAYARD MOVING &
WAREHOUSING, LLC,
Defendants.

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NO. _____

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW DEFENDANT JOHN FAYARD MOVING & WAREHOUSING, LLC, and files this Notice of Removal (“Notice”) of this suit from the County Court at Law #2 in Potter County, Texas, Cause No. 110951-2-CV, to the United States District Court for the Northern District of Texas, Amarillo Division under 28 U.S.C. §§1441, 1446 and 1332(a), and respectfully shows the Court as follows:

**I.
PROCEDURAL FACTS**

1. Plaintiffs are Andrea Marsh Esqueda and Robert Lee Esqueda (“Plaintiffs”). Defendants are Gloria Jean Berlind and John Fayard Moving & Warehousing, LLC (“Defendants”).

2. On May 9, 2022, Plaintiffs filed their Original Petition, asserting negligence claims against Defendants for purported damages sustained by Plaintiffs in a motor vehicle accident that occurred on May 17, 2020, at or near the 2100 block of S. Lakeside Drive in Amarillo, Potter County, Texas, involving a 2019 Dodge Ram hauling a 2003 Star Trailer, operated by Plaintiff Andrea Marsh Esqueda, and a 2019 Western Star tractor hauling a 2017

Wabash trailer, which was operated by Defendant Gloria Jean Berlind, who was operating the tractor-trailer on behalf of Defendant John Fayard Moving & Warehousing, LLC. Plaintiff Robert Lee Esqueda was a passenger in the 2019 Dodge Ram. Plaintiffs sued Defendants in the County Court at Law #2 in the District Court of Potter County, Texas, identified as Cause No. 110951-2-CV, and styled as *Andrea Marsh Esqueda and Robert Lee Esqueda v. Gloria Jean Berlind and John Fayard Moving & Warehousing, LLC* (the “Potter County Suit”). (Ex. A, Plf. Orig. Pet.). On May 17, 2022, citation and the Original Petition in the Potter County Suit were served on the John Fayard, Jr., as registered agent of Defendant John Fayard Moving & Warehousing, LLC (“John Fayard”), at 13486 Fastway Lane, Gulfport, Mississippi. John Fayard filed its Answer to Plaintiffs’ Original Petition on June 13, 2022 (Ex. A, Original Answer of John Fayard). Defendant Gloria Jean Berlind has not been service with citation or suit, and has not entered an appearance in the Potter County Suit.

3. Thus, Defendant John Fayard timely files this notice of removal within the 30-day period required by 28 U.S.C. §1446(b)(3).

II. GROUNDS FOR REMOVAL

4. Defendant John Fayard timely files this Notice of Removal pursuant to 28 U.S.C. §§1441 (a), (b), 1446(b, c), and 1332(a). Removal of the Potter County Suit to this District and Division is proper because this Court has federal diversity jurisdiction in accordance with 28 U.S.C. §1332(a)(1) because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states. 28 U.S.C. §1332(a)(1).

A. Citizenship of the Parties

5. At the time of the filing suit and at the time of removal:

- a. Plaintiff Andrea Marsh Esqueda is a citizen of the State of Texas domiciled and residing in Canyon, Randall County, Texas;
- b. Plaintiff Robert Lee Esqueda is a citizen of the State of Texas domiciled and residing in Canyon, Randall County, Texas;
- c. Defendant Gloria Berlind is a citizen of the State of Virginia domiciled and residing in Virginia; and
- d. Defendant John Fayard Moving & Warehousing, LLC is a limited liability company, incorporated and operating under the State of Mississippi, and is a citizen of the State of Mississippi, domiciled and residing in Gulfport, Harrison County, Mississippi.

B. Removal is proper because there is complete diversity of citizenship as between Plaintiff and Defendant

6. Removal of this suit is proper under 28 U.S.C. §1332(a)(1) because there is complete diversity of citizenship between Plaintiffs and Defendants at the time of filing suit and the time of removal, shown as follows:

- a. Plaintiffs are citizens of the State of Texas;
- b. Defendant Gloria Jean Berlind is a citizen of the State of Florida;
- c. Defendant John Fayard Moving & Warehousing, LLC, is a citizen of the State of Mississippi; and

Thus, there is complete diversity of citizenship between Plaintiffs and Defendants because both Defendants are not citizens of the same state as Plaintiff.

C. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs

7. Removal of this suit is proper under 28 U.S.C. §1332(a) because the amount or matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

8. In Paragraph 10 of Section III of Plaintiffs' Original Petition ("Petition") which is attached hereto (Ex. A, Plf. Pet.), Plaintiffs state they "seek monetary relief over \$250,000.00 but not more than \$1,000,000." Plaintiffs' Petition, a true and correct copy of which is contained in the state court records of the Potter County Suit, is attached hereto as part

of Exhibit A and incorporated by reference.

9. As a result, removal of this suit is proper under 28 U.S.C. §1332(a) because the amount or matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

D. Consent to Removal of Defendants

10. Defendant John Fayard Moving & Warehousing, LLC, consents to the removal of the case to this District and Division, as reflected by filing this Notice of Removal. 28 U.S.C. §1446(b)(2)(A).

E. Potter County Suit Court Records Are Attached

11. True and correct certified copies of all pleadings, process, orders, and other filings in the Potter County Suit are attached to this Notice as Exhibit “A”, as required by 28 U.S.C. §§ 1446(a) and 1449.

F. Venue in this District and Division is Proper

12. Venue in this District and Division is proper under 28 U.S.C. §1441(a) because the County Court at Law #2 of Potter County, Texas, the state court where the state suit has been pending, is located in this District and Division. Plaintiff alleges in Plaintiffs’ Petition that “pursuant to Texas Civil Practices and Remedies Code § 15.002(a), because [Potter County] is the county in which all or a substantial part of the events or omissions giving rise to the complaint occurred.” (Ex. A, Plf. Pet.).

G. Notice of Notice of Removal and Notice of Filing Notice of Removal

13. Pursuant to 28 U.S.C. §1446(d), Defendant John Fayard will promptly file a copy of this Notice of Removal and a Notice of Filing of Notice of Removal with the district clerk of the County Court at Law #2, Potter County, Texas, the state court where the suit has been pending, and will give written notice thereof to all adverse parties.

14. Plaintiff demanded a jury trial in the Potter County Suit.

CONCLUSION

15. For the reasons stated above, removal of the Potter County Suit to this District and Division is proper under 28 U.S.C. §§ 1441, 1446 and 1332(a) because this Court has diversity jurisdiction in accordance with 28 U.S.C. §1332(a)(1) in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.

WHEREFORE, PREMISES CONSIDERED, Defendant John Fayard Moving & Warehousing, LLC, requests that the Court remove the action to the United States District Court for the Northern District of Texas, Amarillo Division.

Respectfully submitted,

MULLIN HOARD & BROWN, L.L.P.
Danny M. Needham, Texas Bar No. 14854400
Christopher W. Weber, Texas Bar No. 00797640
C. Wade Overstreet, Texas Bar. No. 24029758
500 South Taylor, Suite 800
P. O. Box 31656
Amarillo, Texas 79120-1656
Telephone: (806) 372-5050
Facsimile: (806) 372-5086
dmneedham@mhba.com – Email
cweber@mhba.com – Email
woverstreet@mhba.com – Email

By: /s/ Danny M. Needham
Danny M. Needham

ATTORNEYS FOR DEFENDANT JOHN
FAYARD MOVING & WAREHOUSING LLC

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of June 2022, I electronically filed the foregoing document with the Court's electronic filing system, and that a true and correct copy was served on the parties listed below through the electronic case filing system if they are registered and if the Notice of Electronic Filing indicates that the parties received it, and by service through U.S. regular mail to the parties if they are not so registered:

J. Daren Brown
STOCKARD JOHNSTON BROWN & NETARDUS, PC
P.O. Box 3280
Amarillo, TX 79116
Email: dbrown@sjblawfirm.com
Attorney for Plaintiffs

/s/ Danny M. Needham
Danny M. Needham

EXHIBITS TO NOTICE OF REMOVAL

1. Exhibit A Certified Copy of Potters County state court records in Cause No. 110951-2-CV.

Case Information

ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN FAYARD MOVING & WAREHOUSING, LLC

110951-2-CV

Location	Case Category	Case Type	Case Filed Date
Potter County - DC County Court at Law 2	Civil - Injury or Damage	Motor Vehicle Accident	5/9/2022
Judge			
Hand, Matthew H.			

Parties ⁴

Type	Name	Attorneys
Plaintiff	Andrea Esqueda	J. Daren Brown
Plaintiff	Robert Esqueda	J. Daren Brown
Defendant	John Fayard Moving & Warehouse, LLC	
Defendant	Gloria Jean Berlind	

Events ⁶

Date	Event	Type	Comments	Documents
5/9/2022	Filing	REQUEST FOR ISSUANCE	Request for Issuance - (Gloria Jean Berlind)	
5/9/2022	Filing	REQUEST FOR ISSUANCE	Request for Issuance - (John Fayard Moving & Warehouse, LLC, agent John R. Fayard Jr.)	
5/9/2022	Filing	PLAINTIFF'S ORIGINAL PETITION (OCA)	Plaintiff's Original Petition	
5/9/2022	Filing	JURY DEMAND	Plaintiff's Demand for Trial by Jury	
5/23/2022	Filing	RECORD CITATION	JOHN FAYARD MOVING AND WAREHOUSE, REGISTERED AGENT JOHN R. FAYARD, JR. SERVED ON 05/17/2022 BY PROCESS SERVER, RICKY DOMBROWSKI; SERVICE FEE: NONE NOTED	
6/13/2022	Filing	DEFENDANT/S ORIGINAL ANSWER	John Fayard Moving & Warehousing, LLC	2022-06-13 John Fayard Answer to Petition.pdf



CAUSE NO. _____

ANDREA MARSH ESQUEDA and
 ROBERT LEE ESQUEDA,

Plaintiff,

v.

GLORIA JEAN BERLIND and
 JOHN FAYARD MOVING &
 WAREHOUSING, LLC

Defendant.

§ IN THE _____ DISTRICT COURT

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County Court at Law 2

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IN AND FOR

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POTTER COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Plaintiffs, ANDREA MARSH ESQUEDA and ROBERT LEE ESQUEDA, (hereinafter called "PLAINTIFFS") complaining of and about GLORIA JEAN BERLIND and JOHN FAYARD MOVING & WAREHOUSING, LLC (hereinafter called "DEFENDANTS") and for cause of action respectfully shows unto the Court as follows:

I. Discovery Control Plan Level

1. Pursuant to Texas Rule of Civil Procedure 190.4, Plaintiffs state that discovery in this matter is intended to be conducted under Level III, as specified by Tex. R. Civ. P. 190.4.

II. Parties

2. Plaintiff ANDREA MARSH ESQUEDA is an individual whose current address is 3800 W. FM 3331, Canyon, Texas 79015.

3. The last three digits of the driver's license number of ANDREA MARSH ESQUEDA are 730. The last three digits of the social security number for ANDREA MARSCH ESQUEDA are 883.

4. Plaintiff ROBERT LEE ESQUEDA is an individual whose current address is 3800 W. FM 3331, Canyon, Texas 79015.

5. The last three digits of the driver's license number of ROBERT LEE ESQUEDA are 700. The last three digits of the social security number for ROBERT LEE ESQUEDA are 999.

6. Defendant, GLORIA JEAN BERLIND, is an individual whose current address is 627 37th Avenue NE, Saint Petersburg, Florida 33704 and she may be served with process at this address or wherever she may be found.

7. Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC is a Mississippi Limited Liability Company organized and existing under the laws of the State of Mississippi, whose home office address 10323 Express Drive, Gulfport, MS 39503 and may be served with process by serving its registered agent, JOHN R. FAYARD, JR., 13486 Fastway Lane, Gulfport MS 39503.

III. Jurisdiction and Venue

8. The subject matter in controversy is within the jurisdictional limits of this court. Additionally, this court has jurisdiction over Defendants because said Defendants purposefully availed themselves of the privilege of conducting activities in the State of Texas and established minimum contacts sufficient to confer jurisdiction over said Defendants, and the assumption of jurisdiction over these Defendants will not offend traditional notions of fair play and substantial justice and is consistent with the constitutional requirements of due process.

9. Venue is proper in Potter County, Texas, pursuant to Texas Civil Practice and Remedies Code §15.002(a), because it is the county in which all or a substantial part of the events or omissions giving rise to the complaint occurred. More specifically, the accident which

is the subject matter of this case occurred in Amarillo, Potter County, Texas.

10. While the damages to be awarded lie within the sound discretion of the fact finder based on the evidence as presented, Plaintiffs recognize the pleading requirements of Rule 47 of the TEXAS RULES OF CIVIL PROCEDURE. Accordingly, PLAINTIFFS seek monetary relief over \$250,000 but not more than \$1,000,000, which exceeds this Court's minimum jurisdictional requirements.

IV. Facts

11. This lawsuit results from an incident which occurred on or about May 17, 2020, near the 2100 block of S. Lakeside Drive in Amarillo, Potter County, Texas. PLAINTIFFS were traveling northbound on Lakeside Drive and DEFENDANT was eastbound from a private drive. DEFENDANT failed to yield the right of way from the private drive and pulled into oncoming traffic causing PLAINTIFFS' vehicle to collide with the side of DEFENDANT'S vehicle. As a result of the collision, PLAINTIFFS suffered severe personal injuries.

V. Plaintiffs' Claims of Negligence Against Defendant GLORIA JEAN BERLIND

12. DEFENDANT had a duty to exercise ordinary care and operate the vehicle she was driving in a reasonable and prudent manner. She breached this duty in one or more of the following particulars:

- a. Operating a motor vehicle at a speed greater than is reasonable and prudent under the conditions in having regard for actual and potential hazards in existence;
- b. Failing to control the speed of the motor vehicle as necessary to avoid colliding with another person, vehicle or other property in compliance with law and the duty of each person to use due care;

- c. Failing to timely and/or properly apply the brakes;
- d. Failing to maintain a proper lookout as a person of ordinary prudence would have maintained under the same or similar circumstances;
- e. Failing to maintain the proper attention while operating a motor vehicle as a person of ordinary prudence would have maintained under the same or similar circumstances;
- f. Failing to yield the right-of-way to oncoming traffic while turning left; and
- g. Failing to use due caution.

**VI. PLAINTIFF'S CLAIMS OF NEGLIGENCE AGAINST
DEFENDANT JOHN FAYARD MOVING & WAREHOUSE, LLC**

13. Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC had a duty to exercise the degree of care that a reasonably prudent company would use to avoid harm to others under circumstances similar to those described herein. Plaintiffs' injuries and damages were proximately caused by Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC'S negligent, careless, and reckless disregard of said duty. Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC'S breach of this duty consisted of, but is not limited to, the following acts and omissions:

- a. In requiring its employer to drive while fatigued;
- b. In failing to properly supervise its employee;
- c. In failing to adequately train its employees on the safe use of company vehicles;
and
- d. In allowing its employee to drive while distracted.

Respondeat Superior

14. Vicarious liability for Plaintiffs' injuries and damages attaches to Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC through respondeat superior in the following respects:

- a. Defendant BERLIND was an employee of Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC at the time of the incident;
- b. Defendant BERLIND was working in the course and scope of her employment at the time of the incident;
- c. Defendant BERLIND was acting in furtherance of Defendant JOHN FAYARD MOVING & WAREHOUSE, LLC'S business at the time of the incident;
- d. Defendant BERLIND was working for the accomplishment of the object for which he was hired; and
- e. Defendant BERLIND negligence is a proximate cause of Plaintiff's injuries and damages.

VI. Damages of Plaintiff ANDREA MARSH ESQUEDA

15. As a direct and proximate result of all Defendant's negligent acts and/or omissions set forth above, ANDREA MARSH ESQUEDA has suffered physical injuries and damages far in excess of the minimum jurisdictional limits of this Court.

16. ANDREA MARSH ESQUEDA seeks the following damages for the injuries received as a direct and proximate result of the incident made the basis of this lawsuit and of the Defendant's negligence:

- (a) Reasonable and necessary medical and other health care-related expenses sustained in the past and which, in reasonable probability, she will sustain in the future;
- (b) Loss and/or impairment of earnings and/or earning capacity sustained in the past and which, in reasonable probability, she will sustain in the future;
- (c) Physical pain sustained in the past and which, in reasonable probability, he will sustain in the future;

- (d) Mental anguish and emotional distress sustained in the past and which, in reasonable probability, she will sustain in the future;
- (e) Physical impairment sustained in the past and which, in reasonable probability, she will sustain in the future;
- (f) Physical disfigurement sustained in the past and which, in reasonable probability, she will sustain in the future;
- (g) Loss and/or impairment of his enjoyment of life sustained in the past and which, in reasonable probability, she will sustain in the future.

17. Alternatively, PLAINTIFF seeks the above-listed damages that PLAINTIFF suffered as a result of an aggravation of a pre-existing condition(s) as a result of the occurrence made the basis of this lawsuit. The injuries sustained by the PLAINTIFF in the incident complained about have aggravated, exacerbated and activated these previously dormant conditions causing increased pain and discomfort to PLAINTIFF which resulted in additional medical treatment as a result of the aggravation.

VI. Damages of Plaintiff ROBERT LEE ESQUEDA

18. As a direct and proximate result of all Defendant's negligent acts and/or omissions set forth above, ROBERT LEE ESQUEDA has suffered physical injuries and damages far in excess of the minimum jurisdictional limits of this Court.

19. ROBERT LEE ESQUEDA seeks the following damages for the injuries received as a direct and proximate result of the incident made the basis of this lawsuit and of the Defendant's negligence:

- (a) Reasonable and necessary medical and other health care-related expenses sustained in the past and which, in reasonable probability, he will sustain in the future;
- (b) Loss and/or impairment of earnings and/or earning capacity sustained in the past and which, in reasonable probability, he will sustain in the future;
- (c) Physical pain sustained in the past and which, in reasonable probability, he

will sustain in the future;

(d) Mental anguish and emotional distress sustained in the past and which, in reasonable probability, he will sustain in the future;

(e) Physical impairment sustained in the past and which, in reasonable probability, he will sustain in the future;

(f) Physical disfigurement sustained in the past and which, in reasonable probability, he will sustain in the future;

(g) Loss and/or impairment of his enjoyment of life sustained in the past and which, in reasonable probability, he will sustain in the future.

20. Alternatively, PLAINTIFF seeks the above-listed damages that PLAINTIFF suffered as a result of an aggravation of a pre-existing condition(s) as a result of the occurrence made the basis of this lawsuit. The injuries sustained by the PLAINTIFF in the incident complained about have aggravated, exacerbated and activated these previously dormant conditions causing increased pain and discomfort to PLAINTIFF which resulted in additional medical treatment as a result of the aggravation.

VII. Demand for Jury

21. PLAINTIFFS respectfully request a trial by jury and have tendered a jury fee.

VIII. Plaintiffs' Rule 193.7 Notice

22. PLAINTIFFS hereby submit their Notice under Texas Rule of Civil Procedure 193.7 that they intend to use all documents produced by any party in response to written discovery requests at any pretrial proceeding, trial, or both.

IX. Prayer

WHEREFORE, PREMISES CONSIDERED, PLAINTIFFS, prays that DEFENDANTS be cited to appear and answer herein, and that upon a final trial that judgment be entered for PLAINTIFFS against DEFENDANTS for the following:

- a. Damages as set forth in this petition in an amount in excess of the minimum jurisdictional limits of this Court;
- b. Pre-judgment interest from the date of injury through the date of judgment at the maximum rate allowed by law;
- c. Post-judgment interest at the maximum rate allowed by law from the date of judgment until such judgment is satisfied;
- d. Costs of court; and
- e. Such other and further relief, both at law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

Stockard, Johnston , Brown & Netardus, P.C.
J. Daren Brown, Texas State Bar No. 24036271
dbrown@sjblawfirm.com
P.O. Box 3280
Amarillo, Texas 79116
Phone: (806) 372-2202
Fax: (806) 379-7799



J. Daren Brown
Attorneys for Plaintiff

PLAINTIFFS HEREBY DEMAND TRIAL BY JURY

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Rebecca McMurry on behalf of John Brown
Bar No. 24036271
rmcmurry@sjblawfirm.com
Envelope ID: 64318142
Status as of 5/9/2022 3:35 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John DBrown		dbrown@sjblawfirm.com	5/9/2022 2:20:20 PM	SENT
Rebecca AMcMurry		rmcmurry@sjblawfirm.com	5/9/2022 2:20:20 PM	SENT



I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office
this 14 day of June, 2022

The signature is written in a cursive, handwritten style in blue ink. It reads "Stephnie Menke".

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please contact 806-379-2307 or email civilinformation@co.potter.tx.us

Filed
Stephanie Menke
District Clerk
5/9/2022 2:20 PM
Potter County, Texas
By PB Deputy

REQUEST FOR ISSUANCE

CAUSE NUMBER: 110951-2-CV _____

TYPE OF ISSUANCE: *E-FILING-YOU MUST ASSESS THE TYPE OF ISSUANCE, TYPE OF SERVICE, SERVICE FEES, AND COPY FEES ACCORDINGLY*

- ☒ CITATION
☐ PRECEPT
☐ TRO
☐ PROTECTIVE ORDER
☐ ABSTRACT OF JUDGMENT
☐ WRIT OF EXECUTION
☐ OTHER: _____

TYPE OF SERVICE:

- ☐ POTTER COUNTY SHERIFF *SERVICE FEE AND COPY FEE REQUIRED*
☐ CIVIL PROCESS SERVER-AUTHORIZED PERSON TO PICK-UP: _____
☐ POSTING *SERVICE FEE AND COPY FEE REQUIRED*
☐ PUBLICATION *SERVICE FEE REQUIRED*
☐ CERTIFIED MAIL *SERVICE FEE AND COPY FEE REQUIRED*
☐ TO BE MAILED TO PARTY REQUESTING SERVICE *SELF ADDRESSED STAMPED ENVELOPE AND/OR POSTAGE FEE REQUIRED*
☒ TO BE EMAILED TO PARTY REQUESTING SERVICES-MUST INCLUDE EMAIL ADDRESS

TITLE OF DOCUMENT: Plaintiff's Original Petition
FOR EACH PARTY SERVED YOU MUST ASSESS THE APPROPRIATE NUMBER OF COPIES OF THE DOCUMENT TO BE SERVED * UNLESS CLERK IS TO EMAIL, THEN NO COPY FEE IS REQUIRED*

FILE MARKED DATE OF DOCUMENT TO BE SERVED: ____/____/____

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Gloria Jean Berling
 ADDRESS: 627 37th Avenue NE, Saint Petersburg, FL 33704
 AGENT, IF APPLICABLE: _____

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: J. DAREN BROWN, STOCKARD, JOHNSTON, BROWN & NETARDUS, P.C.
 MAILING ADDRESS: P.O. BOX 3280, AMARILLO, TX 79116
 PHONE NUMBER: (806) 372-2202 FAX NUMBER: (806) 379-7799
 EMAIL ADDRESS: dbrown@sjblawfirm.com & rmcmurry@sjblawfirm.com

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Rebecca McMurry on behalf of John Brown
Bar No. 24036271
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John DBrown		dbrown@sjblawfirm.com	5/9/2022 2:20:20 PM	SENT
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I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office
this 14 day of June, 2022

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

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110951-2-CV

CAUSE NUMBER: _____

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- ☒ CITATION
☐ PRECEPT
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☐ WRIT OF EXECUTION
☐ OTHER: _____

TYPE OF SERVICE:

- ☐ POTTER COUNTY SHERIFF *SERVICE FEE AND COPY FEE REQUIRED*
☐ CIVIL PROCESS SERVER-AUTHORIZED PERSON TO PICK-UP: _____
☐ POSTING *SERVICE FEE AND COPY FEE REQUIRED*
☐ PUBLICATION *SERVICE FEE REQUIRED*
☐ CERTIFIED MAIL *SERVICE FEE AND COPY FEE REQUIRED*
☐ TO BE MAILED TO PARTY REQUESTING SERVICE *SELF ADDRESSED STAMPED ENVELOPE AND/OR POSTAGE FEE REQUIRED*
☒ TO BE EMAILED TO PARTY REQUESTING SERVICES-MUST INCLUDE EMAIL ADDRESS

TITLE OF DOCUMENT: Plaintiff's Original

FOR EACH PARTY SERVED YOU MUST ASSESS THE APPROPRIATE NUMBER OF COPIES OF THE DOCUMENT TO BE SERVED * UNLESS CLERK IS TO EMAIL, THEN NO COPY FEE IS REQUIRED *

FILE MARKED DATE OF DOCUMENT TO BE SERVED: ____/____/____

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)NAME: John Fayard Moving + Warehouse, LLCADDRESS: 13486 Fastway Lane, Gulfport, MS 39503AGENT, IF APPLICABLE: John R. Fayard, Jr.**PARTY/ATTORNEY REQUESTING SERVICE:**NAME: J. DAREN BROWN, STOCKARD, JOHNSTON, BROWN & NETARDUS, P.C.MAILING ADDRESS: P.O. BOX 3280, AMARILLO, TX 79116PHONE NUMBER: (806) 372-2202 FAX NUMBER: (806) 379-7799EMAIL ADDRESS: dbrown@sjblawfirm.com & rmcmurry@sjblawfirm.com

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Witness my official hand and seal of office
this 14 day of June, 2022

The signature is written in a cursive, handwritten style in blue ink. It reads "Stephnie Menke".

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please contact 806-379-2307 or email civilinformation@co.potter.tx.us

CAUSE NO. 110951-2-CV

ANDREA MARSH ESQUEDA and
ROBERT LEE ESQUEDA,

Plaintiff,

v.

GLORIA JEAN BERLIND and
JOHN FAYARD MOVING &
WAREHOUSING, LLC

Defendant.

§ IN THE COUNTY COURT AT LAW 2

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§

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IN AND FOR

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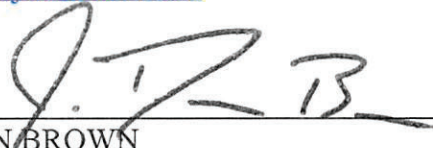
POTTER COUNTY, TEXAS

PLAINTIFF'S DEMAND FOR TRIAL BY JURY

COME NOW, ANDREA MARSH ESQUEDA and ROBERT LEE ESQUEDA,
Plaintiffs, in the above captioned cause, pursuant to Rule 216 of the Texas Rules of Civil
Procedure, demands a trial by jury.

Respectfully submitted,

Stockard, Johnston, Brown & Netardus, P.C.
J. Daren Brown, State Bar No. 24036271
P.O. Box 3280
Amarillo, Texas 79116
Tel: 806/372-2202
Fax: 806/379-7799
dbrown@sjblawfirm.com

By: 
J. DAREN BROWN
Attorneys for Plaintiffs

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Rebecca McMurry on behalf of John Brown
Bar No. 24036271
rmcmurry@sjblawfirm.com
Envelope ID: 64328006
Status as of 5/10/2022 8:16 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John DBrown		dbrown@sjblawfirm.com	5/9/2022 4:12:45 PM	SENT
Rebecca AMcMurry		rmcmurry@sjblawfirm.com	5/9/2022 4:12:45 PM	SENT



I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this 14 day of June, 2022

The signature is written in a cursive, handwritten style in blue ink. It reads "Stephnie Menke".

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

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P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

501 S. Fillmore-Suite 1B

<http://www.co.potter.tx.us/page/potter.District.Clerk> districtclerk@co.potter.tx.us

THE STATE OF TEXAS

CIVIL

CITATION-PERSONAL SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC
IN AND FOR THE: COUNTY COURT AT LAW #2

TO: GLORIA JEAN BERLIND
627 37TH AVENUE NE
SAINT PETERSBURG FL 33704

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT
FILE A **WRITTEN ANSWER** WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE
MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS
CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU. IN ADDITION TO FILING
A WRITTEN ANSWER WITH THE CLERK, YOU MAY BE REQUIRED TO MAKE INITIAL DISCLOSURES TO THE
OTHER PARTIES OF THIS SUIT. THESE DISCLOSURES GENERALLY MUST BE MADE NO LATER THAN 30
DAYS AFTER YOU FILE YOUR ANSWER WITH THE CLERK. FIND OUT MORE AT TEXASLAWHELP.ORG.

THE ADDRESS OF THE CLERK IS SHOWN ABOVE. THE PLAINTIFF'S PETITION WAS FILED MAY 09, 2022 IN
THE COUNTY COURT AT LAW #2 LOCATED AT AMARILLO, POTTER COUNTY, TEXAS.

ATTACHED HERETO IS: PLAINTIFF'S ORIGINAL PETITION

THE ATTORNEY FOR THE PLAINTIFF IS:

J. DAREN BROWN

PO BOX 3280

806-372-2202

AMARILLO TX 79116-3280

ISSUED AND GIVEN UNDER MY HAND AND SEAL: MAY 10, 2022

STEPHIE MENKE, CLERK OF THE COURT
POTTER COUNTY, TEXAS
(OFFICER'S RETURN FOLLOWS)

BY DEPUTY:



P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

501 S. Fillmore-Suite 1B

<http://www.co.potter.tx.us/page/potter.District.Clerk>

districtclerk@co.potter.tx.us

RETURN OF SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC

IN AND FOR THE: COUNTY COURT AT LAW #2

CAME TO HAND ON THE _____ DAY OF _____, 20__, AT _____, O'CLOCK __.M., AND
EXECUTED IN _____ COUNTY, TEXAS BY PERSONALLY DELIVERING TO THE
NAMED DEFENDANT(S), A TRUE COPY OF THIS CITATION WITH THE DATE OF DELIVERY ENDORSED THEREON,
TOGETHER WITH ACCOMPANYING COPY OF PLAINTIFF'S ORIGINAL PETITION, IN PERSON, AT THE FOLLOWING
TIMES AND PLACES, TO-WIT:

NAME OF INDIVIDUAL, CORPORATION, OR AGENT SERVED:

ADDRESS: _____

DATE: _____, 20__ AT _____ O'CLOCK __.M.

AND NOT EXECUTED AS TO THE DEFENDANT(S),

THE DILIGENCE USED IN FINDING SAID DEFENDANT(S) BEING:

AND THE CAUSE OR FAILURE TO EXECUTE THIS PROCESS IS:

AND THE INFORMATION RECEIVED AS TO THE WHEREABOUTS OF SAID DEFENDANT(S) BEING:

FEES:

SERVING CITATION \$ _____

_____, SHERIFF
_____, COUNTY, TEXAS
BY: _____, DEPUTY
_____, AFFIANT

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

IN ACCORDANCE WITH RULE 107: THE OFFICER OR AUTHORIZED PERSON WHO SERVES, OR ATTEMPTS TO SERVE, A CITATION SHALL SIGN THE
RETURN. THE RETURN MUST EITHER BE VERIFIED OR BE SIGNED UNDER PENALTY OF PERJURY. A RETURN SIGNED UNDER PENALTY OF PERJURY
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"MY NAME IS _____, MY DATE OF BIRTH IS _____, AND MY
ADDRESS IS _____.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the
_____ day of _____, 20__.

Declarant/Authorized Process Server

ID # & expiration of certification

P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

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THE STATE OF TEXAS

CIVIL

CITATION-PERSONAL SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
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THE ATTORNEY FOR THE PLAINTIFF IS:

J. DAREN BROWN

PO BOX 3280

806-372-2202

AMARILLO TX 79116-3280

806-372-2202

ISSUED AND GIVEN UNDER MY HAND AND SEAL: MAY 10, 2022

STEPHNIE MENKE, CLERK OF THE COURT
POTTER COUNTY, TEXAS
(OFFICER'S RETURN FOLLOWS)

BY DEPUTY:



P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

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districtclerk@co.potter.tx.us

RETURN OF SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC

IN AND FOR THE: COUNTY COURT AT LAW #2

CAME TO HAND ON THE _____ DAY OF _____, 20__, AT _____, O'CLOCK __.M., AND
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NAMED DEFENDANT(S), A TRUE COPY OF THIS CITATION WITH THE DATE OF DELIVERY ENDORSED THEREON,
TOGETHER WITH ACCOMPANYING COPY OF PLAINTIFF'S ORIGINAL PETITION, IN PERSON, AT THE FOLLOWING
TIMES AND PLACES, TO-WIT:

NAME OF INDIVIDUAL, CORPORATION, OR AGENT SERVED:

ADDRESS:

DATE: _____, 20__ AT _____ O'CLOCK __.M.

AND NOT EXECUTED AS TO THE DEFENDANT(S),

THE DILIGENCE USED IN FINDING SAID DEFENDANT(S) BEING:

AND THE CAUSE OR FAILURE TO EXECUTE THIS PROCESS IS:

AND THE INFORMATION RECEIVED AS TO THE WHEREABOUTS OF SAID DEFENDANT(S) BEING:

FEES:

SERVING CITATION \$ _____

_____, SHERIFF

_____, COUNTY, TEXAS

BY: _____, DEPUTY

_____, AFFIANT

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

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I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in _____ County, State of _____, on the
_____ day of _____, 20__.

Declarant/Authorized Process Server

ID # & expiration of certification



I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office
this 14 day of June, 2022

The signature is written in a cursive, handwritten style in blue ink. It reads "Stephnie Menke".

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

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P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

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<http://www.co.potter.tx.us/page/potter.District.Clerk> districtclerk@co.potter.tx.us

THE STATE OF TEXAS

CIVIL

CITATION-PERSONAL SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC

IN AND FOR THE: COUNTY COURT AT LAW #2

TO: JOHN FAYARD MOVING & WAREHOUSE, LLC, BY SERVING ITS REGISTERED AGENT,
JOHN R. FAYARD, JR.
13486 FASTWAY LANE
GULFPORT MS 39503

NOTICE: YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT
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THE ATTORNEY FOR THE PLAINTIFF IS:

J. DAREN BROWN

PO BOX 3280

806-372-2202

AMARILLO TX 79116-3280

J. DAREN BROWN

ISSUED AND GIVEN UNDER MY HAND AND SEAL: MAY 10, 2022

STEPHNIE MENKE, CLERK OF THE COURT
POTTER COUNTY, TEXAS
(OFFICER'S RETURN FOLLOWS)

BY DEPUTY:



ORIGINAL FOR RETURN

P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

501 S. Fillmore-Suite 1B

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districtclerk@co.potter.tx.us

RETURN OF SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC

IN AND FOR THE: COUNTY COURT AT LAW #2

CAME TO HAND ON THE _____ DAY OF _____, 20__, AT _____, O'CLOCK __.M., AND
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NAMED DEFENDANT(S), A TRUE COPY OF THIS CITATION WITH THE DATE OF DELIVERY ENDORSED THEREON,
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_____, COUNTY, TEXAS
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Executed in _____ County, State of _____, on the
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Declarant/Authorized Process Server

ID # & expiration of certification

P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

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THE STATE OF TEXAS

CIVIL

CITATION-PERSONAL SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC
IN AND FOR THE: COUNTY COURT AT LAW #2

TO: JOHN FAYARD MOVING & WAREHOUSE, LLC, BY SERVING ITS REGISTERED AGENT,
JOHN R. FAYARD, JR.
10323 EXPRESS DRIVE
GULFPORT MS 39503

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ATTACHED HERETO IS: PLAINTIFF'S ORIGINAL PETITIOON

THE ATTORNEY FOR THE PLAINTIFF IS:

J. DAREN BROWN

PO BOX 3280

806-372-2202

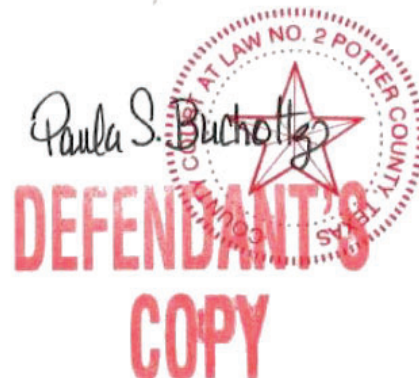
AMARILLO TX 79116-3280

806-372-2202

ISSUED AND GIVEN UNDER MY HAND AND SEAL: MAY 10, 2022

STEPHIE MENKE, CLERK OF THE COURT
POTTER COUNTY, TEXAS
(OFFICER'S RETURN FOLLOWS)

BY DEPUTY:



P.O. Box 9570

POTTER COUNTY

Phone: 806-379-2300

Amarillo, Texas 79105-9570

Stephnie Menke, District Clerk

Fax: 806-372-5061

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RETURN OF SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC

IN AND FOR THE: COUNTY COURT AT LAW #2

CAME TO HAND ON THE _____ DAY OF _____, 20__, AT _____, O'CLOCK __.M., AND
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NAME OF INDIVIDUAL, CORPORATION, OR AGENT SERVED:

ADDRESS: _____

DATE: _____, 20__ AT _____ O'CLOCK __.M.

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THE DILIGENCE USED IN FINDING SAID DEFENDANT(S) BEING:

AND THE CAUSE OR FAILURE TO EXECUTE THIS PROCESS IS:

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FEES:

SERVING CITATION \$ _____

_____, SHERIFF
_____, COUNTY, TEXAS
BY: _____, DEPUTY
_____, AFFIANT

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Executed in _____ County, State of _____, on the
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Declarant/Authorized Process Server

ID # & expiration of certification



I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

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this 14 day of June, 2022

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Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

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Filed
Stephnie Menke
District Clerk
5/23/2022 11:08 AM
Potter County, Texas
By JW Deputy

P.O. Box 9570

Amarillo, Texas 79105-9570

501 S. Fillmore-Suite 1B

POTTER COUNTY

Stephnie Menke, District Clerk

<http://www.co.potter.tx.us/page/potter.District.Clerk> districtclerk@co.potter.tx.us

Phone: 806-372-2300

Fax: 806-372-5061

THE STATE OF TEXAS

CIVIL

CITATION-PERSONAL SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN

FAYARD MOVING & WAREHOUSING, LLC

IN AND FOR THE: COUNTY COURT AT LAW #2

TO: JOHN FAYARD MOVING & WAREHOUSE, LLC, BY SERVING ITS REGISTERED AGENT,

JOHN R. FAYARD, JR.

13486 FASTWAY LANE

GULFPORT MS 39503

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THE ATTORNEY FOR THE PLAINTIFF IS:

J. DAREN BROWN

PO BOX 3280

806-372-2202

AMARILLO TX 79116-3280

J. DAREN BROWN

ISSUED AND GIVEN UNDER MY HAND AND SEAL: MAY 10, 2022

STEPHNIE MENKE, CLERK OF THE COURT
POTTER COUNTY, TEXAS
(OFFICER'S RETURN FOLLOWS)

BY DEPUTY:



ORIGINAL FOR RETURN

P.O. Box 9570

Amarillo, Texas 79105-9570

501 S. Fillmore-Suite 1B

POTTER COUNTY

Stephnie Menke, District Clerk

<http://www.co.potter.tx.us/page/potter.District.Clerk> districtclerk@co.potter.tx.us

Phone: 806-379-2300

Fax: 806-372-5061

RETURN OF SERVICE

CAUSE NO. 110951-2-CV

STYLE: ANDREA MARSH ESQUEDA AND ROBERT LEE ESQUEDA VS. GLORIA JEAN BERLIND AND JOHN
FAYARD MOVING & WAREHOUSING, LLC
IN AND FOR THE: COUNTY COURT AT LAW #2

CAME TO HAND ON THE 16 DAY OF MAY, 2022 AT 5 O'CLOCK P.M., AND
EXECUTED IN _____ COUNTY, TEXAS BY PERSONALLY DELIVERING TO THE
NAMED DEFENDANT(S), A TRUE COPY OF THIS CITATION WITH THE DATE OF DELIVERY ENDORSED THEREON,
TOGETHER WITH ACCOMPANYING COPY OF PLAINTIFF'S ORIGINAL PETITION, IN PERSON, AT THE FOLLOWING
TIMES AND PLACES, TO-WIT:

NAME OF INDIVIDUAL, CORPORATION, OR AGENT SERVED:

John Fayard Moving & Warehouse LLC serving its Registered
Agent John R Fayard JR.

ADDRESS: 13486 Fastway Lane, Gulfport, MS 39503

DATE: May 17, 2022, 2022 AT 2:30 O'CLOCK P.M.

AND NOT EXECUTED AS TO THE DEFENDANT(S),

THE DILIGENCE USED IN FINDING SAID DEFENDANT(S) BEING:

AND THE CAUSE OR FAILURE TO EXECUTE THIS PROCESS IS:

AND THE INFORMATION RECEIVED AS TO THE WHEREABOUTS OF SAID DEFENDANT(S) BEING:

FEES:

SERVING CITATION \$ _____

_____, SHERIFF
_____, COUNTY, TEXAS
BY: _____, DEPUTY
_____, AFFIANT

COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.

IN ACCORDANCE WITH RULE 107: THE OFFICER OR AUTHORIZED PERSON WHO SERVES, OR ATTEMPTS TO SERVE, A CITATION SHALL SIGN THE
RETURN. THE RETURN MUST EITHER BE VERIFIED OR BE SIGNED UNDER PENALTY OF PERJURY. A RETURN SIGNED UNDER PENALTY OF PERJURY
MUST CONTAIN THE STATEMENT BELOW IN SUBSTANTIALLY THE FOLLOWING FORM:

"MY NAME IS Recky Dombrowski, MY DATE OF BIRTH IS 9/13/1959, AND MY
ADDRESS IS P.O. Box 1472, Gulfport, MS 39502.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in HARRISON County, State of Mississippi, on the
17 day of MAY, 2022.

B. Dombrowski
Declarant/Authorized Process Server

ID # & expiration of certification

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Rebecca McMurry on behalf of John Brown
Bar No. 24036271
rmcmurry@sjblawfirm.com
Envelope ID: 64747879
Status as of 5/23/2022 12:15 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John DBrown		dbrown@sjblawfirm.com	5/23/2022 11:08:21 AM	SENT



I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office
this 14 day of June, 2022

The signature is written in a cursive, handwritten style in blue ink. It reads "Stephnie Menke".

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please contact 806-379-2307 or email civilinformation@co.potter.tx.us

CAUSE NO. 110951-2-CV

ANDREA MARSH ESQUEDA and
ROBERT LEE ESQUEDA,
Plaintiffs,

v.

GLORIA JEAN BERLIND and
JOHN FAYARD MOVING &
WAREHOUSING, LLC,
Defendants.

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COUNTY COURT AT LAW #2

IN AND FOR

POTTER COUNTY, TEXAS

**DEFENDANT JOHN FAYARD MOVING & WAREHOUSING, LLC'S ANSWER TO
PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Defendant, JOHN FAYARD MOVING & WAREHOUSING, LLC
("Defendant" or "JOHN FAYARD") and submits its Answer to Plaintiffs' Original Petition and
shows the Court the following:

I.

MOTION FOR LEVEL THREE DISCOVERY CONTROL PLAN

1. Pursuant to TEX. R. CIV. P 190.4, Defendant hereby moves the Court for an order
requiring the parties to conduct discovery under Level 3 and enter an appropriate scheduling
order.

II.

GENERAL DENIAL

2. In accordance with Tex. R. Civ. P. 92, Defendant hereby asserts a general denial
to all claims in Plaintiffs' Original Petition ("Petition") and generally denies each and every, all
and singular, material allegations and claims asserted in the Petition and/or in any subsequent
petition and demands strict proof by a preponderance of the evidence according to Texas law.

II.

AFFIRMATIVE DEFENSES

DEFENDANT JOHN FAYARD MOVING & WAREHOUSING LLC'S ANSWER TO
PLAINTIFF'S ORIGINAL PETITION—PAGE 1

Pleading in the alternative, and without waiving the above and foregoing, Defendant asserts the following affirmative defenses against Plaintiffs' claims:

3. **Contributory Negligence.** At all relevant times, and shortly before, immediately before and/or at the time of the collision/incident in question, Plaintiffs Andrea Marsh Esqueda and Robert Lee Esqueda (Plaintiffs or "Esquedas") were negligent, contributorily negligent, and failed to use ordinary care by failing to act as ordinarily prudent persons or reasonable persons would have acted under the same or similar circumstances. Such contributory negligence, comparative fault, or proportionate responsibility of Plaintiffs, either singularly or in combination, was the sole proximate cause, or alternatively, a proximate cause, of the incident in question, and any injuries or damages sustained by Plaintiff. Any and all recovery of Plaintiffs is barred by Plaintiffs' own proportionate responsibility, comparative fault, negligence, and/or negligence per se described above, in accordance with TEX. CIV. PRAC. & REM. CODE §33.001. Alternatively, Defendant hereby asserts that the trier of fact be allowed to determine the percentage of responsibility of Plaintiffs in accordance with Chapter 33.001 et seq. of the Texas Civil Practice and Remedies Code, including Sections 33.001, 33.003, 33.004, 33.011, 33.012, and 33.013. The recovery of any damages of Plaintiffs on their claims and causes of action are therefore barred by Plaintiffs' own proportionate responsibility, negligence, or fault, or alternatively, the Court must reduce the amount of damages to be recovered by Plaintiffs by a percentage equal to the percentage of responsibility of Plaintiffs determined by the jury at trial, pursuant to TEX. CIV. PRAC. & REM. CODE ANN. §§ 33.001, 33.003, 33.004, 33.011, 33.012, and 33.013.

4. **Right to Proportionate Responsibility/Comparative Fault Determination of all Parties.** In accordance with TEX. CIV. PRAC. & REM. CODE §§ 33.001, 33.003, 33.004, 33.011, 33.012 and 33.013, Defendant asserts that that the jury be allowed to determine the percentage of

proportionate responsibility or comparative fault as to each claimant/decedent, each defendant, each settling person and each designated responsible third party with respect to each said person's or entity's causing or contributing to cause in any way the alleged harm and damages for which Plaintiffs seek recovery, whether by negligent act or omission or by other conduct or activity that violates an applicable legal standard. Defendant hereby asserts and invokes the proportionate responsibility/comparative fault provisions of TEX. CIV. PRAC. & REM. CODE § 33.001 *et. seq.*

5. Under Section 304.1045 of the TEXAS FINANCE CODE, Defendant cannot be liable to Plaintiffs for any pre-judgment interest on future damages.

6. Plaintiffs' recovery of any loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, or loss of inheritance, is limited to net loss after reduction for income tax payments or unpaid tax liability under the federal income tax law of the United States, in accordance with TEX. CIV. PRAC & REM CODE ANN. §18.091(a). Defendant is entitled to an instruction to the jury that any recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, or loss of inheritance is subject to federal income taxes, in accordance with TEX. CIV. PRAC & REM CODE ANN. §18.091(b).

III. **DEMAND FOR A JURY TRIAL**

7. Defendant hereby timely demands its right to a jury trial on all triable issues.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant JOHN FAYARD MOVING & WAREHOUSING LLC requests that this Court upon final trial of this cause enter final judgment that Plaintiffs take nothing by their suit and that Defendant JOHN FAYARD MOVING & WAREHOUSING LLC recover its costs of court, and for such other and further relief, at law or in equity, general or special, to which it may show itself justly entitled.

Respectfully submitted,

MULLIN HOARD & BROWN, L.L.P.
Danny M. Needham, TBN: 14854400
Christopher W. Weber, TBN: 00797640
C. Wade Overstreet, TBN: 24029758
P. O. Box 31656
Amarillo, Texas 79120-1656
Telephone: (806) 372-5050
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dmneedham@mhba.com – Email
cweber@mhba.com – Email
woverstreet@mhba.com – Email

By: /s/ Danny M. Needham
Danny M. Needham

ATTORNEYS FOR DEFENDANT JOHN
FAYARD MOVING & WAREHOUSING LLC

CERTIFICATE OF SERVICE

I hereby certify that, on this 13th day of June 2022, I electronically filed the foregoing document with the State of Texas electronic filing system through eFileTexas.gov, and that a true and correct copy was served on the parties listed below through the electronic case filing system by email if they are registered, and by email if they are not registered with the electronic case filing system:

J. Daren Brown
STOCKARD JOHNSTON BROWN & NETARDUS, PC
P.O. Box 3280
Amarillo, TX 79116
Email: dbrown@sjblawfirm.com
Attorney for Plaintiffs

/s/ Danny M. Needham
Danny M. Needham

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Erica Anderson on behalf of Danny Needham
 Bar No. 14854400
 eanderson@mhba.com
 Envelope ID: 65365473
 Status as of 6/13/2022 11:14 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John DBrown		dbrown@sjblawfirm.com	6/13/2022 9:42:45 AM	SENT
Rebecca AMcMurry		rmcmurry@sjblawfirm.com	6/13/2022 9:42:45 AM	SENT

Associated Case Party: John Fayard Moving & Warehouse, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Christopher Weber		cweber@mhba.com	6/13/2022 9:42:45 AM	SENT
Lisa Reed		lreed@mhba.com	6/13/2022 9:42:45 AM	SENT
Wade Overstreet		woverstreet@mhba.com	6/13/2022 9:42:45 AM	SENT
Danny Needham		dmneedham@mhba.com	6/13/2022 9:42:45 AM	SENT
Erica Anderson		eanderson@mhba.com	6/13/2022 9:42:45 AM	SENT



I, Stephnie Menke, District Clerk of Potter County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office
this 14 day of June, 2022

The signature is written in a cursive, handwritten style in blue ink. It reads "Stephnie Menke".

Stephnie Menke, DISTRICT CLERK

POTTER COUNTY, TEXAS

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